

**A RESOLUTION BY:
CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE PAYMENT OF E.SPRIRE COMMUNICATION INCORPORATED'S PREFERENCE DEMAND PURSUANT TO § 547(b) OF THE UNITED STATES BANKRUPTCY CODE; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE AN AMOUNT NOT TO EXCEED \$10,000.00 FROM FUND #1 AO1 529017 T31001 AND FOR OTHER PURPOSES.

WHEREAS, e.spire Communications (e.spire) filed for bankruptcy on March, 22, 2001 ("Petition Date");

WHEREAS, pursuant to § 138-127 of the City of Atlanta Code of Ordinances, a telecommunication franchise shall pay the City of Atlanta (City) an annual franchise fee equal to three percent (3%) of its annual gross revenue when the franchisee utilizes the City's Right of Way;

WHEREAS, pursuant to § 138-127 of the City of Atlanta Code of Ordinances, the City received its three percent (3%) payment for the use of the its Right of Way from e.spire totaling \$15,924.00 during the ninety (90) day period preceding the Petition Date;

WHEREAS, the payments made by e.spire to the City in the amount of \$15,924.00 constitute a preference payment as defined by § 547(b) of the United States Bankruptcy Code;

WHEREAS, Pursuant to § 547(b) of the United States Bankruptcy Code, a preference payment is any payment (i) made by e.spire to a creditor during the ninety (90) day period prior to the Petition Date (in this case, the period between December 22, 2000 through March 22, 2001), when e.spire was insolvent, (ii) for a preexisting debt, and (iii) that allows the creditor (the City) to recover more than if it had been paid in the bankruptcy case;

WHEREAS, the City's Law Department negotiated the amount of the preference demand from \$15,924.00 to \$10,000.00; and

WHEREAS, pursuant to § 547(b) of the United States Bankruptcy Code the City has to pay e.spire the amount of \$10,000.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA GEORGIA. AS FOLLOWS REGARDING THE § 567(B) BANKRUPTCY PREFERENCE DEMAND:



Section 1: That the City Attorney be and is hereby authorized to conclude and complete the settlement of all claims which have been asserted or could have been asserted and from which negotiations have been completed with e.spire.

Section 2: That the total settlement amount of e.spire's preference demand is \$10,000.00.

Section 3: That the Chief Financial Officer is authorized and directed to pay e.spire the amount of \$10,000.00., as negotiated between the City of Atlanta and e.spire, from fund #1 AO1 529017 T31001.

Section 4: That the City Attorney is hereby directed to prepare the appropriate releases and other settlement documents as are necessary to protect the City's interest.

Section 5: That nothing in this resolution shall operate, nor shall be construed, to estop or prejudice the City from contesting the validity of or disputing liability for any claims asserted or which could have been asserted in connection with this company, or any of its successors firms or claims asserted by any other company that has now or in the past had any claims against the City whether such claims are mature or are hereafter accruing.

A true copy,

Rhonda Daughlin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

OCT 20, 2003
OCT 28, 2003

RCS# 5099
10/20/03
4:32 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I EXCEPT:03-O-1695, 03-O-1444
03-O-1689, 03-O-1493, 03-O-1494

~~RECONSIDER~~

ADOPT

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	NV Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
N Young	Y Shook	Y Maddox	B Willis
NV Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

RCS# 5098
10/20/03
4:30 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I & II PGS 1-22 EXCEPT:03-O-1695
03-O-1444, 03-O-1689, 03-O-1493
RECONSIDER

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

*See RCS#
5067*

Y Smith	Y Archibong	Y Moore	NV Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
N Young	Y Shook	Y Maddox	B Willis
NV Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

RCS# 5067
10/20/03
2:15 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-17, EXCEPT:03-O-1695,
03-O-1444, 03-O-1689, 03-O-1493
ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

*Reconsidered 104
See RCS# 12
5098*

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	B Willis
Y Winslow	NV Muller	NV Boazman	NV Woolard

CONSENT I

03-17711

(Do Not Write Above This Line)

A RESOLUTION BY:
CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING
THE PAYMENT OF ESPRIE
COMMUNICATION INC'S.
PREFERENCE DEMAND
PURSUANT TO §547(b) OF THE
UNITED STATES BANKRUPTCY
CODE; AUTHORIZING THE
CHIEF FINANCIAL OFFICER TO
DISBURSE AN AMOUNT NOT TO
EXCEED \$10,000.00 FROM FUND
#1A01 529017 T31001 AND FOR
OTHER PURPOSES.

APPROVED BY:

Deputy City Attorney
Deputy City Attorney

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☐ PERSONAL PAPER REFER

Date Referred
Referred To:
Date Referred
Referred To:
Date Referred
Referred To:
Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

2170 copyfile for
Oct. Page 2003
Chair
Chair

Chair
Action
Fav, Adv, Hold (see rev. side)
Other

Members

Chair
Chair

Chair
Action
Fav, Adv, Hold (see rev. side)
Other

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

ADOPTED BY

OCT 20 2003

COUNCIL

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

Chair
Chair

Chair
Action
Fav, Adv, Hold (see rev. side)
Other

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

Chair
Chair

Chair
Action
Fav, Adv, Hold (see rev. side)
Other

Refer To

CERTIFIED

FINAL COUNCIL ACTION
☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED
OCT 20 2003

ATLANTA CITY COUNCIL PRESIDENT
Chair

CERTIFIED
OCT 20 2003

Chair
MUNICIPAL CLERK

APPROVED

OCT 28 2003
Chair
MAYOR